

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**NATHAN D. WILHITE,  
APPELLANT  
vs.**

**STATE OF MISSOURI,  
RESPONDENT**

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DOCKET NUMBER WD72058

DATE: APRIL 12, 2011

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Appeal from:

The Circuit Court of Randolph County, Missouri  
The Honorable Scott A. Hayes, Judge

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Appellate Judges:

Division Two: Karen King Mitchell, P.J., Joseph M. Ellis and Victor C. Howard, JJ.

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Attorneys:

Margaret M. Johnston, for Appellant

Mary H. Moore, for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**NATHAN D. WILHITE, APPELLANT**

**v.**

**STATE OF MISSOURI, RESPONDENT**

WD72058

Randolph County, Missouri

Before Division Two: Karen King Mitchell, P.J., Joseph M. Ellis and Victor C. Howard, JJ.

Nathan Wilhite entered guilty pleas to three counts of the class B felony of child molestation in the first degree. Pursuant to a plea agreement, the State agreed that he would be sentenced to twelve years on each count, to run concurrently. The State also agreed that Wilhite would enter a Sex Offender Assessment Unit (SOAU), and the court would later determine whether Wilhite should be released on probation. After Wilhite was assessed by SOAU staff, the court determined that Wilhite would not be released on probation and ordered the execution of his twelve-year sentence. Wilhite filed a Rule 24.035 motion, which the motion court denied after an evidentiary hearing. Wilhite appeals.

**AFFIRMED.**

**Division Two holds:**

The evidence at the hearing showed that Wilhite was placed in administrative segregation for his own protection due to his previous employment as a correctional officer in the Department of Corrections. Thus, he was not physically placed in the facility where the SOAU is housed. However, SOAU staff testified that they traveled to the facility where Wilhite was held and performed a full assessment of Wilhite. Therefore, despite the fact that he was not physically placed in the SOAU facility, Wilhite received the assessment contemplated by the parties' plea agreement. The motion court did not clearly err in finding that the parties' plea agreement was not breached and in denying Wilhite's Rule 24.035 motion.

**Opinion by: Victor C. Howard, Judge**

Date: April 12, 2011

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